

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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FARRIS ABDUL-MATIYN,

Plaintiff,

v.

DEPARTMENT OF THE NAVY,  
COUNCIL OF REVIEW RECORDS,

Defendant.  
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**MEMORANDUM & ORDER**  
21-CV-2133 (WFK) (LB)

**WILLIAM F. KUNTZ, II, United States District Judge:**

By Order dated June 1, 2021, this action was dismissed without prejudice as premature and pro se Plaintiff was informed that he may refile his complaint, if necessary, when the Naval Discharge Review Board (“NDRB”) has issued its decision. On June 3, 2021, the NDRB decision (“Decision”) denying Plaintiff’s request was docketed. ECF No. 9 at 2–3.<sup>1</sup>

Because the Court’s Order was premised on Plaintiff’s failure to show that the NDRB had issued a final decision, the Court dismissed the complaint without prejudice. ECF No. 7. Unbeknownst to the Court, Plaintiff had included a copy of the NDRB final decision in his request for a default judgment, however, there was a delay in docketing the submission. Accordingly, the Judgment is hereby VACATED and the Clerk of Court is directed to REOPEN this case.

The action shall proceed solely to the extent that Plaintiff seeks review of the Decision under the Administrative Procedures Act. The Clerk of the Court is directed to issue a summons against Defendant at the address listed on the Decision and the United States Marshals Service is

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<sup>1</sup> Plaintiff’s Affirmation of Service of Default Judgment which included the NDRB decision was submitted to the Court on May 26, 2021, but it was not docketed until June 3, 2021, after the judgment had been entered on June 2, 2021. ECF Nos. 7, 8.

directed to serve the Complaint, the Amended Complaint, the Court's May 6, 2021 and June 1, 2021 orders, and this Order on the Defendant without prepayment of fees.

The case is referred to the Honorable Lois Bloom, United States Magistrate Judge, for pretrial supervision.

The Court certifies pursuant to 28 U.S.C. §1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis status* is denied for purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

The Clerk of Court is respectfully requested to send a copy of this Order to Plaintiff by mail, and to note the mailing on the docket.

**SO ORDERED.**

s/ WFK

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HON. WILLIAM F. KUNTZ, II  
UNITED STATES DISTRICT JUDGE

Dated: June 14, 2021  
Brooklyn, New York